

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 7. Mediation Questionnaire**

*Instructions for this form: <https://www.ca9.uscourts.gov/forms/form07instructions.pdf>*

**9th Cir. Case Number(s)** 24-6151

**Case Name** Harvey v. Netflix, Inc., et al.

**Counsel submitting this form** Marvin S. Putnam, Latham & Watkins LLP

**Represented party/parties** Appellants Netflix, Inc. and Netflix Worldwide Entertainment, LLC

*Briefly describe the dispute that gave rise to this lawsuit.*

Baby Reindeer (the "Series") is a dramatic and fictionalized work based on the real life events of creator and lead actor Richard Gadd. Appellant Netflix, Inc. distributes the Series, which tells the story of a character named Donny Dunn, a comedian who struggles with his sexual identity and past sexual abuse, who is stalked, harassed, and physically assaulted by a character named Martha Scott ("Martha"). On June 6, 2024, Appellee Fiona Harvey ("Harvey") filed a complaint (the "Complaint") alleging that the fictional Martha character is her, and brought defamation, intentional infliction of emotional distress, negligence and gross negligence, and violation of the common law and statutory rights of publicity claims against Appellants Netflix, Inc., and Netflix Worldwide Entertainment, LLC (collectively, "Netflix").

*Briefly describe the result below and the main issues on appeal.*

On September 27, 2024, the district court denied Appellants' Special Motion to Strike Harvey's Complaint, holding that Harvey had demonstrated that her defamation claim has a probability of prevailing on the merits (the "Order"). The main issue on appeal is whether the district court erred in holding that Harvey demonstrated that her claims have a probability of prevailing on the merits, and, in particular, whether the district court erred in holding that Harvey demonstrated a probability of prevailing on the merits in showing that (1) a reasonable viewer could understand the alleged defamatory statements about Martha to be about Harvey; (2) a reasonable viewer could interpret the alleged defamatory statements to be assertions of fact; (3) the alleged defamatory statements are not substantially true; (4) the alleged defamatory statements were made with actual malice; (5) Harvey is not libel-proof; (6) the alleged defamatory statements are not legally protected opinion under the First Amendment; and (7) Harvey's remaining claims for intentional infliction of emotional distress, negligence and gross negligence, and violation of the common law and statutory rights of publicity should not be stricken as premised on the same publication and therefore duplicative of her defamation claim. Another issue on appeal is whether the district court erred in relying on inadmissible evidence in holding that Harvey demonstrated a probability of prevailing on the merits.

*Describe any proceedings remaining below or any related proceedings in other tribunals.*

On October 3, 2024, Appellants filed the Notice of Appeal of the district court's Order to the United States Court of Appeals for the Ninth Circuit. The district court proceedings are stayed and the pre-trial deadlines and trial date are vacated pursuant to the district court's October 11, 2024 order granting the parties' Joint Stipulation to Stay Action Pending Defendants' Appeal of Order Denying Special Motion to Strike.

**Signature**

**Date**

(use "s/[typed name]" to sign electronically-filed documents)